

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

*** CRIMINAL DOCKET NO. 11-062**

v.

*** SECTION: A**

NESTOR ALEJANDRO GONZALEZ-BAUTISTA *

a/k/a David Santiago

a/k/a David Vargas Santiago *

a/k/a David V. Santiago

*** * ***

FACTUAL BASIS

If this case were to proceed to trial the Government would prove the Defendant guilty beyond a reasonable doubt of count one of the three-count Indictment pending against him. In count one, the Defendant, **NESTOR ALEJANDRO GONZALEZ-BAUTISTA** (“**GONZALEZ**”) is charged with making a false statement and entry to a federal agency, in violation of Title 18, United States Code, Section 1001. The Government would establish the following through reliable and competent evidence:

A Special Agent with the U.S. Department of Homeland Security, Homeland Security Investigations (hereinafter “HSI”), would testify that on January 28, 2011, HSI agents encountered **GONZALEZ** at C & G Welding Services, Inc. in the Eastern District of Louisiana. The defendant presented HSI agents with what appeared to be a genuine Transportation Worker Identification Credential (hereinafter “TWIC card”) issued to David V. Santiago as proof of identification. Upon further inquiry into the defendant’s biographical information, **GONZALEZ**

admitted to HSI agents that he was illegally present in the United States. **GONZALEZ** was then taken into HSI custody for immigration violations.

An official with Transportation Security Administration (TSA) would testify that TSA is an agency of the United States Department of Homeland Security within the executive branch of the government of the United States of America. The TSA official would testify that TWIC cards are required for all individuals seeking unescorted access to secure areas of maritime facilities and vessels, and all mariners holding United States Coast Guard-issued credentials. Further, an official with TSA would testify that the TWIC program is administered by TSA and is regulated by both HSI and the United States Coast Guard. The TSA official would testify that a person who wants to be issued a TWIC card must apply through TSA, which has jurisdiction over such applications.

The TSA official would testify that on or about February 18, 2010, the defendant, **GONZALEZ**, applied for TWIC card at a TSA office in the Eastern District of Louisiana. As part of the TWIC card application process, **GONZALEZ** presented a birth certificate issued by the Commonwealth of Puerto Rico in the name David Vargas Santiago, bearing certificate number ending in 04095755, as proof of identity and citizenship. The Commonwealth of Puerto Rico birth certificate was then electronically scanned, copied and made part of TSA's records. The TSA official would further testify that **GONZALEZ** presented a written Transportation Worker Identification Credential Disclosure Form and Certifications, signed by the defendant in the name David Vargas Santiago, certifying and stating that he in fact is a citizen or national of the United States. The TSA official would testify that illegal aliens are not eligible for issuance

of a TWIC card. The TSA official would testify that the defendant, **GONZALEZ**, was issued a TWIC card by TSA based on the information in his application, including his statements and entries in the Transportation Worker Identification Credential Disclosure Form and Certifications and his presentment of the Commonwealth of Puerto Rico birth certificate.

The HSI agent would testify that, upon questioning **GONZALEZ** under oath after being read his *Miranda* rights in Spanish, the defendant stated that his true name is Nestor Alejandro Gonzalez-Bautista, and he is a citizen of Mexico and is illegally in the United States. The HSI agent confirmed the defendant's illegal status through the HSI database. The defendant further stated that he purchased the Commonwealth of Puerto Rico birth certificate from an individual in New Orleans, and he used that document to obtain a genuine TWIC card.

Testimony of an official from United States Citizenship and Immigration Services regarding record checks conducted through the Computer Linked Application Information Management System would show that the defendant, **GONZALEZ**, did not receive consent from

the United States Attorney General or his designated successor, the Secretary of the Department of Homeland Security, to apply for admission or receive permission to enter the United States.

ROBERT WEIR
Special Assistant United States Attorney

Date

NESTOR ALEJANDRO GONZALEZ-BAUTISTA
Defendant

Date

SAMUEL SCILLITANI
Attorney for Defendant

Date